IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17803 of 2004

Between:

1 Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2 P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3 Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4 Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5 Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, guntur.
6 Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

..... PETITIONERS(S)

AND

1 Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
2 State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation & CAD Department, Secretariat, Hyderabad.
3 A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
4 The Superintending Engineer, Irrigation & CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
5 The Central Water Commission, Rep. by its Chairman,
New Delhi.
6 The District Collector, Nalgonda, Nalgonda District.
7 The District Collector, Guntur, Guntur District.

8. Kodela Siva Prasada Rao, s/o late Sanjeevaiah,

aged 57 years, r/o Narasaraopet, Guntur district.

9. Ambati Brahmanaiah, s/o Rayudaiah,

Aged 64 year, r/o Vakkapatlavaripalem mandal,

Nagayalanka, Krishna district.

10.Devineni Rajsekhar @ Nehru, s/o Ramakrishna Varaprasad,

aged 49 years, MLA, Kankipadu Assembly Constituency,

Krishna district.

11.M.Buddha Prasad, s/o M.V.Krishna Rao,

aged 47 years, M.L.A., Avanigadda Constituency & Convener of

Krishna Delta Parirakshna Samithi, r/o Avanigadda, Krishna district.

12. Y.Nagendranath, s/o Venkata Nageswara Rao,

aged 60 years, Leader of Rythu Sangala Samithi,

r/o Kondur village, Kaledendi mandal, Krishna district.

13. Akineni Bhavani Prasad, s/o Rajagopal Rao,

President of Krishna District Federation of Farmers Association,

Aged 63 years, r/o Geetha Grandeur, Flat No.604,

Yousufguda X Roads, Hyderabad.

14. Lagadapati Rajagopal, s/o L.Ramanaidu,

aged 41 years, Member of Parliament, Vijayawada.

15. Dr Y.Sivaji, s/o Y.Radha Krishna, aged 55 years,

r/o Brundavan Gardens, Guntur – 522 006.

16 Dr Boragadda Srinath, s/o Sri B.Niranjan Rao,

r/o Kankatava, Gudur Mandal Secretary, Krishna Delta Farmers Welfare Association, (Registered).

17. Yelamanchili Babu Rajendra Prasad, s/o Seetharamaiah,

aged 41 years, r/o Vuyyuru, Krishna district.

18 B.Somasekhara, s/o B.P.N.Prasad,

aged 35 years, r/o 203, Aravind Vihar Apartments,

Aravind Nagar, Domalaguda, Hyderabad.

(Respondent Nos.8 to 18 are impleaded as per Court order dated 17-11-2004 in

WPMPs.No.24313, 24319, 24384, 24421, 24612, 25636, 25780, 26061 of 2004 respectively)

.....RESPONDENTS(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in taking steps to commence the construction work of 'Pulichintala Project' without obtaining permission/environmental clearance from the Central Government as arbitrary, illegal and violative of principles of natural Justice and contrary to notification dt. 27-01-1994 issued by the 1st respondent, further direct the Respondents to shift and relocate the 'Pulichintala Project' to an alternative location immediately after the confluence of Munneru Tributary and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

W.P.M.P NO : 23349 of 2004

Between:

1 Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2 P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3 Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4 Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5 Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, guntur.
6 Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

..... PETITIONERS

(PETITIONERSs in W.P.M.PNO : 17803 of2004
on the file of High Court)

AND

1. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
2. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
3. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
4. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
5. The Central Water Commission, Rep. by its Chairman,
New Delhi.
6. The District Collector, Nalgonda, Nalgonda District.
7. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

(RESPONDENTSs in -do-)

Petition under Section 151 of CPC praying the High Court to direct the respondents not to go ahead with the finalization of the tenders and not to commence the construction of 'Pulichintala Project' pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 24319 of 2004

Between

Devineni Rajsekhar @ Nehru, s/o Ramakrishna Vara Prasad,

MLA, Kankipadu Assembly Constituency, Krishna district.

..Petitioner/Proposed respondent No.10

1 Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2 P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3 Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4 Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5 Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6 Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

Writ petitioners

7 1Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8 State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9 A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10 The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11 The Central Water Commission, Rep. by its Chairman,
New Delhi.
12 The District Collector, Nalgonda, Nalgonda District.
13 The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the petitioner herein as RESPONDENT No.10 in the pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 24421 of 2004

Between

Sri Lagadapati Rajagopal, s/o L.Rama Naidu,

Aged 41 years, Member of Parliament, Vijayawada.

…Petitioner/Proposed respondent No.14

and

1 Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2 P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3 Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4 Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5 Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6 Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

..... PETITIONERS

7 Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8 State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation & CAD Department, Secretariat, Hyderabad.
9 A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10 The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11 The Central Water Commission, Rep. by its Chairman,
New Delhi.
12 The District Collector, Nalgonda, Nalgonda District.
13 The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the petitioner as respondent No.14 in the pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 25636 of 2004

Between:

Dr Boragadda Srinath, s/o B.Niranjan Rao,

Aged about 40 years, r/o Kankatava, Guduru mandal,

Krishna District.

Secretary, The Krishna Delta Farmers Welfare Association.

…Implead Petitioner/ Proposed

Respondent No.16.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4. Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6. Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

…Writ Petitioners.

7. The Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.
12. The District Collector, Nalgonda, Nalgonda District.
13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the PETITIONER herein as RESPONDENT No. 16 in the above wp pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 24313 of 2004

Between:

1. Kodela Siva Prasada Rao, S/o LateSanjeevaiah,

aged 57 years, R/o Narasaraopet, Guntur.

2. Ambati Brahmanaiah, S/o Rayudaiah, aged 64 years,

R/o Vakkapatlavaripalem Mandal,

Nagayalanka, Krishna District.

…. Implead Petitioners/

Proposed Respondents 8 & 9.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4. Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6. Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

.....Writ Petitioners

7. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10.The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.
12. The District Collector, Nalgonda, Nalgonda District.
13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the PETITIONERS as RESPONDENTS 8 and 9 in the pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 24384 of 2004

Between:

1. M.Budha Prasad, S/o M.V.Krishna Rao

aged about 47 years, Occ: M.L.A. Avanigadda Constituency and

Convenor of Krishna Delta Parirakshana Samithi

R/o Avanigadda, Krishna District.

2. Y.Nagendra Nath, S/o Sri Venkata Nageswar Rao

aged about 60 years, Leader Raythu Sanghala Samithi,

R/o Kondur village, Kalidendi Mandal, Krishna District.

3. Akkineni Bhavani Prasad, S/o Sri Raja Gopal Rao,

President of Krishna District Federation of Farmers Association,

Aged about 63 years, R/o “Geeta Grandeur” Flat No.604,

Yousufguda “X”Roads, Hyderabad.

…. Implead Petitioners/

Proposed Respondents 11, 12 & 13.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4. Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6. Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

….. Writ Petitioners.

7. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.

12. The District Collector, Nalgonda, Nalgonda District.
13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the PETITIONERS 1 to 3 herein as RESPONDENTS 11 to 13 in the pending W.P.NO.17803 of2004on the file of the High Court.

W.P.M.P NO : 24612 of 2004

Between:

Dr. Y.Sivaji, S/o Sri Y.Radha Krishna,

Aged about 55 years, R/o Brundavan Gardens,

Guntur-522006.

…. Implead Petitioner/

Proposed Respondent No.15.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4.Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, guntur.
6.Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

… Writ Petitioners.

7. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.
12. The District Collector, Nalgonda, Nalgonda District.

13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the PETITIONER herein as RESPONDENT No. 15 in the pending W.P.NO.17803 of 2004 on the file of the High Court

W.P.M.P NO : 25780 of 2004

Between:

Yalamanchili Babu Rajendra Prasad

S/o Sitaramaiah, 41 years,

R/o Vuyyuru, Krishna District.

… Implead Petitioner/

Proposed Respondent No.17.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4. Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6. Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

…. Writ Petitioners.

7. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.
12. The District Collector, Nalgonda, Nalgonda District.
13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to permit the PETITIONER herein to be impleaded as RESPONDENT No. 17 in the wp pending W.P.NO.17803 of 2004 on the file of the High Court.

W.P.M.P NO : 26061 of 2004

Between:

B.Somasekhar, S/o late B.P.N.Prasad, aged 35 years,

R/o 203, Aravind Vihar Apartments, Aravind Nagar,

Domalguda, Hyderabad.

…. Implead petitioner/

Proposed Respondent No.18.

AND

1. Vedire Venkata Reddy, S/o. Veera Reddy,
R/o. Flat No.4, Block No.18, MIG Phase - II, Baglingampally, Hyderabad.
2. P. Murali Manohar Rao, S/o. P. Laxman Rao,
R/o. 10-3-103, Teachers Colony, East Maredpally, Secunderabad.
3. Yadala Venkateswarlu, S/o. Venkateswarlu,
R/o. Vittamrajupally, Vinukonda Mandal, Guntur District.
4. Pothugunta Raja Rao, S/o. Venkata Ramaiah,
R/o. Vasantharayapuram, 2nd Lane, Guntur.
5. Kusuma Ravichandra, S/o. Kistaiah,
R/o. 22-12-94, Lalapet, Guntur.
6. Yangala Koteswara Rao, S/o. Venkataiah,
R/o. 10/3, Arandapet, Guntur.

… Writ Petitioners.

7. Union of India, Ministry of Environment and Forests,
Rep. by its Secretary, New Delhi.
8. State of Andhra Pradesh, Rep. by its Principal Secretary,
Irrigation&CAD Department, Secretariat, Hyderabad.
9. A.P. Pollution Control Board, Rep. by its Member-Secretary,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.
10. The Superintending Engineer, Irrigation&CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor,
Dornakal Road, Suryaraopet, Vijayawada.
11. The Central Water Commission, Rep. by its Chairman,
New Delhi.
12. The District Collector, Nalgonda, Nalgonda District.
13. The District Collector, Guntur, Guntur District.

.....RESPONDENTS

Petition under Section 151 of CPC praying the High Court to implead the

PETITIONER herein as 18th RESPONDENT in the pending W.P.NO.17803 of 2004 on the file of the High Court.

Counsel for the PETITIONERS: MR.HARENDER PRASAD

Counsel for respondent No.1 & 5: Mr D.Prakash Reddy for MR A Rajashekar Reddy (SC FOR CG)

Counsel for respondent No2, 4, 6 and 7: Advocate General

Counsel for respondent No.3: Mr S.V.Bhatt

Counsel for respondent No.8: Mr A.Ramanarayana for Mr P.Madhusudhana Rao

Counsel for respondent No.10:Mr.S.Ramachandra Rao

representing Mr. K.R.Prabhakar.

Counsel for respondent No.11, 12 and 13: Mr Ramesh Ranganathan for Mr J.N.Bhushan

Counsel for respondent No.14: Mr M.P.Chandramouli

Respondent No.15 : Party in person

Counsel for Respondent No.16: Mr Ramesh Ranganathan for Mr K.S.Raghava Kumar

Counsel for respondent No.17: Mr K.Ramakrishna Reddy for Mr Kanakamedala Ravindra Kumar

Counsel for Respondent No.18: Mr K.Ram Murthy for Mr.O.Manohar Reddy.

W.P.M.P. Nos. 23349, 24313, 24319, 24384, 24421, 24612, 25636, 25780 and 26061 of 2004

and

W.P.No. 17803 of 2004

The Court made the following COMMON ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

Petitioners, including a retired Engineer-in-Chief, A.P. TRANSCO, belong to

various sections of society. Petitioners 3 to 6 and others are stated to have formed an association called “Pulichintala Project Porata Sambhavana Committee”. They claim that this association includes the affected farmers of Guntur and Nalgonda districts whose agricultural lands are situate near the proposed site of Pulichintala Project and to safeguard the interests of the people living in twelve villages situated in Nalgonda and Guntur districts, whose lands are likely to be submerged if the Project is allowed to commence at the site, this writ petition has been filed as ‘Public Interest Litigation’ on 30.9.2004. The writ petition challenges the action of the respondents in commencing the Pulichintala Project for the purpose of stabilizing the command area under Prakasham barrage. Inter alia, it is alleged that the respondents have decided to commence the Pulichintala Project without obtaining environmental clearance, as envisaged under the Environment (Protection) Act, 1986. Without obtaining such consent, the petitioners allege that the work of the proposed project cannot be commenced.

2. Rule nisi was issued in the writ petition on 4.10.2004. The petitioners also filed miscellaneous application, viz., W.P.M.P.No. 23349 of 2004, praying for issuance of directions that the respondents be restrained from finalizing the tender process and not to commence the construction work of the project during the pendency of the writ petition. Time was sought to file counter affidavit and reply to the miscellaneous application. In the meanwhile, apprehending likelihood of passing some interim orders a number of miscellaneous applications have been filed by some individuals and associations for being impleaded as party respondents to the writ petition and to permit them to submit their views before the Court. The said applications were also taken up for consideration. In view of the averments made in the implead applications, they are ordered.

3. The main relief sought by the petitioners in the writ petition is to declare the action of the respondents in taking steps to commence the construction work of the Pulichintala Project without obtaining environmental clearance from the Central Government as arbitrary, illegal and violative of principles of natural justice and contrary to the notification dated 27.1.1994 issued by the first respondent. The second relief sought in the petition is to direct the respondents to shift and relocate the Pulichintala Project to an alternate location immediately after the confluence of Muneru Tributary.

4. When we commenced hearing, learned counsel for the parties were asked

to address us only on the question of grant of an interim relief, if any, as prayed for by the petitioners on the ground that environmental clearance has not been obtained. On the other aspects raised in the petition, we pointed out that the said questions would arise for consideration only after this question is answered. Learned counsel for the respondents pointed out that since elaborate arguments on the points of environmental clearance have been addressed, the writ petition itself can be disposed of.

5. Submissions were made on the question that whether or not it is obligatory on the part of the State Government to obtain environment clearance prior to commencement of the project work in any manner whatsoever or whether the work undertaken is such which would not require the said clearance. Arguments were also addressed on behalf of the State Government that though it was bound to obtain necessary environmental clearance before the commencement of the work but by entrusting the construction work to M/s. Srinivasa Construction Company after evaluation of the tenders and acceptance thereof, the only work undertaken at the site is only to assess soil strata which is a part of foundation investigation along with dam access so as to assess the soil parameters for finalization of detailed designs for the foundation of the dam. It was urged that the construction of Pulichintala Project will involve investigation work for assessing the soil parameters for the purpose of preparation and finalization of designs, drawings, etc., which form part of foundation investigation as per Central Water Commission Guidelines, 1983. The contractor has to undertake the said exercise under the present E.P.C., turn key system, who had in fact undertaken work only for the purpose of foundation investigation to enable him to finalize the design which would not come within the purview of the actual commencement of construction work of the project. The investigation and preparation of designs itself will take about six months time. In this backdrop, learned counsel for the respondents and the other impleaded respondents pointed out that there should not be any restraint on the respondents in going ahead with the work and there should not be any injunction of any kind particularly considering that it was a major multipurpose project for which clearance had already been issued by the Central Water Commission. Moreover considering the larger public interests and the persons likely to be benefited by the project, any restraint, if imposed, is likely to adversely affect the beneficiaries and will not be in public interest.

6. Some of the impleaded respondents also questioned the very locus standi of the petitioners to file such a petition as public interest litigation saying that the petition is not at all in public interest but is contrary to the larger interests of majority of the citizens of the State. Another objection is about the jurisdiction of the Court to entertain such a petition on the ground that water disputes between the Governments of Karnataka, Maharashtra and Andhra Pradesh, including the Pulichintala Project, have already been referred to Krishna Water Dispute Tribunal, which Tribunal alone can agitate these water disputes under Section 5 of the Inter-State Water Disputes Act, 1956 and in view prohibition contained in Article 262 (2) of the Constitution read with Section 11 of the Inter-State Water Disputes Act, 1956, this Court shall not exercise jurisdiction in respect of water dispute.

7 . The petitioners alleged that as per the proposal of the State Government, Pulichintala Project is proposed to be located before the confluence of Muneru tributary resulting inflow of water from Muneru into Krishna River and thereafter into Bay of Bengal. Since the capacity of Krishna barrage is only 4 t.m.c., in recent times a number of protests were received from general public with regard to location of Pulichintala Project and a report was also submitted by Engineer, T. Hanumantha Rao, the then Chairman Technical Committee, Water Conservation Mission, Government of Andhra Pradesh called “Technical Alternatives to Pulichintala Project”. The report had pointed out that the site selected was not a suitable or beneficial site. Apart from other disadvantages, the proposed project has not received any environmental clearance from the Central Government i.e., the Ministry of Environment and Forests, which is mandatory. The petitioners highlighted the fact that under the Notification issued on 27.1.1994, there is a procedure laid down in obtaining environmental clearance. The State Government is the Project Authority and has to apply for clearance. It has also to append along with its application, the proceedings of public hearing, which is also mandatory under the relevant provisions. On an earlier occasion when the fourth respondent had commenced the construction work of the Project without conducting any public hearing and without obtaining consent, Writ Petition No. 15425 of 2001 was filed. The State Government had pointed out that it had already taken steps to obtain environmental clearance. The writ petition filed at that stage questioning the implementation of the project at the given site was held to be premature and was disposed of by a Division Bench of this Court on 12.9.2001 observing that obtaining permission from the Central

Government was mandatory. The petitioners, thus, alleged that the respondents are now proceeding ahead in commencement of the work without obtaining environmental clearance.

8. The stand of the State Government on the environmental clearance is that the Government after considering the importance of the project had submitted a proposal to the Central Water Commission on 16.1.1996 for its approval. The Central Water Commission in its 64th meeting in Advisory Committee of Irrigation Flood Control and Multipurpose Project held on 3.4.1996 decided to recommend the Pulichintala Project as a techno economic viable project subject to obtaining environmental clearance. After the recommendation of the Central Water Commission, detailed investigation and survey has been undertaken by the fourth respondent. For the purpose of obtaining environmental clearance, as prescribed under the Environmental Impact Assessment Notification, 1994, steps for conducting public hearing have been taken by the State Government, as suggested by the Pollution Control Board. Public hearing was sought to be conducted on 23.3.1998 but the same could not be completed due to strong resistance from various groups, political parties and voluntary organizations. When the matter stood thus, the inflow of water into Krishna River has drastically been reduced due to construction of various dams at the upstream of the Krishna River in Karnataka State and due to prevailing drought conditions in the State. There is dire necessity to proceed ahead with the Pulichintala Project for regulating the water release to Krishna delta as well as to meet the increased demand of power. In this view of the matter, the Government has decided to immediately take up the construction of the Pulichintala Project and accordingly tenders were invited on 23.2.2000 for construction of non overflow dam and spill way across the river Krishna on E.P.C., turn key system. After evaluation, tenders were accepted and the work was entrusted to the contractor. As regards public hearing, it is stated that it is now scheduled to be held on 10.11.2004 at 10 A.M., at Mandal Revenue Office, Mallacheruvu, Nalgonda District and all necessary steps as required under Schedule IV of the Environmental Impact Assessment Notification, 1994 have been taken. It is also stated that the entire effort of the State is to save time and the action of the State Government in award of contract cannot be found fault with.

9. It is not disputed by the State Government that obtaining environmental clearance is mandatory before commencement of construction work. In the affidavit of the Project Administrator and the Superintending Engineer, it is also stated that assuming that the project is allowed to proceed, it is only when the construction of the dam up to bank level is complete, the lands will be submerged and it is expected to take at least one and half year and till then no land will be subjected to any submersion. As such there cannot be any interjection with the present work being undertaken. Further, it is stated that in view of the importance of the project and for economic development of the State all efforts are being made by the State Government for early completion of the project for which no exception can be taken by any person. As noticed above, it has not been disputed by respondents 1 to 4 that some work is going on at the site, which according to the Project Administrator is only an investigation work for assessing soil parameters for the purpose of finalizing the designs and drawings and the said construction will not come under the purview of the environmental aspect and does not require any prior permission of the Ministry of Environment and Forests, Government of India.

10. We need not take note of the State Government's stand on the merits at this stage since on merits of the project, the petition is still premature. The only question, at this stage, is that whether the State Government can proceed ahead with implementation of project without environmental clearance.

11. On behalf of the Central Government though no counter affidavit has been filed so far, but learned Standing Counsel for the Central Government has handed over to us a communication received by him from the Additional Director, Ministry of Environment and Forests, Government of India dated 26.10.2004, which states that the Irrigation and Command Area Development Department, Government of Andhra Pradesh has on 20.10.2004 submitted its proposal in respect of Pulichintala major irrigation project in Guntur District for site clearance. The letter further states that the proposal is under examination and after the site clearance is granted, the project authorities are required to submit comprehensive environmental impact assessment report incorporating the suggestions given in the public hearing for environmental clearance. Learned Advocate General pointed out that it is only a communication from the Ministry of Environment and Forests to its counsel and is not a counter affidavit, therefore, no cognizance of the same can be taken since the State Government has no occasion yet to verify the facts as to whether site clearance had

or had not been granted. In any case we are taking the stand of the 1st respondent on record since specifically the Additional Director requested the Standing Counsel for Central Government to bring this fact to the notice of the Court.

12. The locus standi of the petitioners has been challenged by making reference to the cause title of the order passed in earlier Writ Petition No. 15425 of 2001 decided on 12.9.2001 (Professor K. Purushotham Reddy and another v. State of Andhra Pradesh and others). The said writ petition was filed when some work at the project site was commenced. The writ petition was dismissed as premature since environmental clearance, which is required to be obtained had not been obtained and the State Government had pointed out that it was taking steps to obtain environmental clearance. Mr. S. Ramachandra Rao referred to Annexure-K appended to the present petition. It is a copy of representation sent by Telangana Congress Party addressed to the Governor of the State on the Pulichintala Project. It was pointed out that in the earlier writ petition Professor K. Purushotham Reddy, the working President was the petitioner whereas its Treasurer, P. Murali Manohar Rao, is one of the petitioners in the present writ petition and therefore it is a mala fide petition. Considering the nature of allegations made in this petition, the mere fact that one of the petitioners is an office bearer of a particular party, whose office bearer was petitioner in the earlier petition will not be a ground to hold that the petition is mala fide or that the petitioners have no locus standi to file the petition. The petitioners are public spirited persons and form part of a homogenous group likely to be adversely affected in the event of the project being set up at the site in question. They have highlighted and tried to project the grievance of the landowners that the State Government is proceeding with the work contrary to the procedure laid down in law. Even as per the affidavit of the State Government, there had been strong resistance from various groups, political parties and voluntary organizations due to which the requisite public hearing, which earlier was sought to be conducted on 28.3.1998, could not take place. We do not find any force in such like submission that it is not a petition filed in public interest and turn down this objection. Considering the nature of the points raised and the importance of the project, it cannot be said that it is a motivated mala fide petition not filed in public interest.

13. Public Interest Litigation is that where the public in general are interested in vindication of some rights or enforcement of some public duty. Such litigation has hitherto been entertained by the Supreme Court under Article 32 and by the High

Courts under Article 226 of the Constitution not only from associations or organizations or individuals interested in a common cause. Where public interest is undermined by arbitrary or perverse executive action, it is rather duty of the High Court to issue appropriate writ. We may make reference to **Chaitanya Kumar v. State of Karnataka**. In view of a spate of petitions filed as Public Interest Litigation, lately it has been held that before entertaining a letter or communication as PIL, the Courts should take adequate care and caution that the process of the court is not abused or misused. In doing so the Court should be prima facie satisfied that the information laid before the Court is of such a nature, which call for judicial scrutiny. Where the Court is so prima facie satisfied it may proceed to investigate into the allegations with a view to meeting out justice. In exercising the power of entertaining PIL, the Court should not forget the object with which procedural technicalities in such like petitions have been relaxed e.g. to provide easy access to justice to weaker section of the community and to combat exploitation and injustice and to secure to the under-privileged segments of society their social and economical entitlement. Such procedural technicalities are also relaxed in petitions filed to redress public injury, enforce public duty, protect social rights, vindicate public interest and rule of law, effect access to justice to economical weaker class and meaningful realisation of fundamental rights. It has been held in **M/s. J. Mohapatra and Co. v. State of Orissa** that once the Court is satisfied as to the public mischief to be remedied, it would not insist on the locus standi of the petitioners. A balance has to be struck by the Court in a public interest litigation between two conflicting interests i.e., (i) no body should be indulged in wild and reckless allegations besmirching the character of others and (ii) avoidance of public mischief and to prevent publicly mischievous executive action as held in **Chaitanya Kumar case (1 supra).** Where public mischief is predominant, the Court may not only restrain executive action but may also give appropriate affirmative action. (See: **State of H.P., v. Umed Ram Sharma**).

14. On the maintainability of the writ petition on the ground that it is filed in representative capacity and must be dismissed since leave of the court has not been obtained under Order I Rule 8 of the Code of Civil Procedure, reliance was placed on a judgment of the Supreme Court reported as **Ramchander Sunda v. Union of India.** The objection is ill-founded inasmuch the writ petitioners have no where stated that the writ petition is being filed in representative capacity or that they are seeking leave of the Court under Order I Rule 8 of the Code of Civil Procedure. The

petition has been filed in public interest and on the parameters as noticed above and as laid down by the Supreme Court in **Narmada Bachao Andolan v. Union of India,** such a petition filed in public interest undoubtedly would be maintainable. We may also observe that in view of Section 141 of the Code of Civil Procedure, even provisions of Order I Rule 8 are not applicable to a petition filed under Article 226 of the Constitution of India. We hold that the petition has been filed bona fide and is in public interest.

15. Now the objection was raised about jurisdiction of the Court to entertain and decide this writ petition. As a limb of that objection reference was made to the decision of the Supreme Court in **State of Karnataka v. State of A.P., and others.** Two Civil Suits (O.S.No. 1 of 1997 and O.S.No. 2 of 1997) were decided by the Supreme Court. State of Karnataka had filed suit, O.S.No. 1 of 1997 before the Supreme Court under Article 131 of the Constitution of India, inter alia, praying for an injunction restraining the State of Andhra Pradesh from executing several projects, including Pulichintala Project. State of Maharashtra, defendant No.2 in the said suit, agreed with the State of Karnataka regarding apportioning of water of river Krishna for constructing various projects like Pulichintala. One of the issues (issue No. 11) in the said suit was whether the decision of Krishna Water Dispute Tribunal entitles the State of Andhra Pradesh to execute projects, including Pulichintala. The apex Court, in the context of the prayer made in the plaint and in view of the findings, held that the question of granting relief sought for by the State of Karnataka did not arise, which relief included an order of injunction restraining the State of Andhra Pradesh from executing several projects, including Pulichintala. The Supreme Court, however, observed that in the event of any riparian States approaching the Central Government, it would do well to constitute a tribunal, which tribunal would go into the entire disputes. It was pointed out that now a Tribunal has since been constituted. It was, thus, urged that the relief sought for in the O.S.No. 1 of 1997 before the Supreme Court was similar to the relief now sought in this petition, which was turned down by the apex Court, therefore, this court ought not to exercise its jurisdiction under Article 226 of the Constitution in favour of the petitioners and would decline to grant the relief.

16. Such an objection raised on behalf of the respondents has to be simply turned

down on the ground that the present writ petition is neither a petition filed by any of the riparian States, nor by their agents or by a person claiming rights through the riparian States. Filing of the suit by the State of Karnataka and raising an issue by State of Maharashtra in the Apex Court cannot affect the rights of persons, like the petitioners, who belong to State of Andhra Pradesh, in approaching the Court where the questions raised are not such which were before the Supreme Court in O.S.No. 1 of 1997 or could be raised in the said suit. The cause of action is also not the same.

17. Another limb of the same objection is that the writ petition has raised a dispute relating to water, therefore, in view of Article 262 (2) of the Constitution of India read with Section 11 of the Inter-State Water Disputes Act, 1956 jurisdiction of the Court is barred. Reference in that behalf was placed on the decisions of the Supreme Court in **Tamilnadu C.N.V.V.N.U.P. Sangam v. Union of India**, **State of Tamilnadu v. State of Karnataka** and **Re: Cauvery Water Disputes Tribunal**. No doubt the writ petition would not be maintainable provided a water dispute as defined in Inter-State Water Dispute Act, 1956 is raised therein. Whether such a dispute is raised in the writ petition is the question to be answered.

18. 'Water dispute' has been defined in Section 2 (c) of the Inter-State Water Dispute Act to mean any dispute or difference between two or more State Governments in respect to the use, distribution or control of waters of or in any inter State river or river valley. It was urged that Krishna River Water Dispute Tribunal award popularly known as Bachwath award in Chapter III made it clear that River Krishna, which flows from Maharashtra, Karnataka and then Andhra Pradesh is an inter State river and the words "use", "distribution" or "control" in Section 2 (c) (i) of the said Act are of wide import and would include regulation and development of waters and waters of any inter State river which can only be regulated through construction of reservoirs and dams, etc. Since the proposed Pulichintala Project is a balancing reservoir with the aim of use, distribution or control of water of river Krishna, which is inter State River, such a dispute would be covered within the definition of 'water dispute' as defined in Section 2 (c) of the Act thereby ousting jurisdiction of this Court. It was urged that it is not necessary that such a dispute must be raised only inter se States. Even if certain individuals would approach this Court, instead of another State Government, it would not confer jurisdiction on this Court to entertain a dispute which is a "water dispute". Article 131 of the Constitution confers original jurisdiction

on the Supreme Court to adjudicate upon disputes between the Government of India and one or more States or between two or more States and Article 262 (2) of the Constitution read with Section 11 of the Inter-State Water Disputes Act bars jurisdiction of any Court from entertaining any "water dispute" as defined in the said Act. Reliance was also placed on the decision of Gujarat High Court in **Babubhai Jashbhai Patel v. Union of India** stating that invoking jurisdiction of the Court by the petitioners in this court is misconceived.

19. We have given due consideration to the objection raised and find no force in such submissions that the writ petition raised a dispute which is "water dispute" and for that this court has no jurisdiction to entertain the writ petition. Article 262 refers to disputes relating to waters and envisage adjudication of disputes relating to waters of Inter State rivers or river valleys by a special Tribunal. It says that Parliament by law may provide for adjudication of any dispute or complaint with respect to the use, distribution or control over the waters of, or in, any inter State river or river valley and also provide for barring jurisdiction of the Supreme Court and other Courts that notwithstanding anything contained in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other Court shall exercise jurisdiction in respect of such dispute or complaint in case such a law is brought into force. The Parliament in exercise of its power has enacted Inter-State Water Disputes Act, 1956, being a legislation to provide for adjudication of disputes relating to waters of Inter State Rivers and River valleys. 'Water dispute' in Section 2 (c) is defined as under:

> "any dispute or difference between two or more State Governments with respect to –
>
> i. the use, distribution or control of the waters of, or in, any inter-State river or river valley; or
>
> ii. the interpretation of the terms of any agreement relating to the use, distribution or control of such waters or the implementation of such agreement; or
>
> iii. the levy of any water-rate in contravention of the prohibition contained in Section 7."

20. Section 11 of the Act bars the jurisdiction of the Supreme Court and other courts saying:

> "Notwithstanding anything contained in any other law, neither the Supreme Court nor

any other Court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act."

21. A dispute would come within the definition of 'water dispute' if it is between two or more governments, which is a sine qua non and therefore the very requirement of the definition is not met. The argument on behalf of the respondents that what cannot be done directly cannot be permitted to be done indirectly and therefore the reliefs which the petitioners have sought were the reliefs before the Supreme Court or could have been raised by other States. Instead of the riparian States coming forward, certain individuals in the garb of a PIL have approached this Court to stall the implementation of the project. It was thus urged that any dispute which would have the effect of stalling a project of the nature which is being envisaged for use, distribution or control of the waters of an Inter-State River would not be entertainable by any Court.

22. In no part of the writ petition, there is any indication or averment that the dispute raised is about the use, distribution or control of the water of Krishna River arising between States. Andhra Pradesh is the last beneficiary State of Krishna waters after the States of Karnataka and Maharashtra. Whatever beneficial uses the State of Andhra Pradesh can make use of the Krishna River, it is by implementation of one of such projects which is the subject matter of the present petition. It has been filed by certain individuals representing one section of the society urging that though there cannot be any dispute in the implementation of the project but it cannot be constructed at the proposed site for various reasons or in any case in the absence of any environmental clearance under the provisions of the Environment (Protection) Act, work cannot be commenced. Other points have also been raised in the suit that for various reasons, how and in what manner project ought to be implemented. Dispute would not by any stretch of imagination fall with the definition of 'water dispute' thereby ousting the jurisdiction of the court. Before the Division Bench of Gujarat High Court, writ petition had been filed by Babubhai Jashubhai Patel etc., private citizens by way of public interest litigation, since they felt that royalty paid to the State for crude oil produced in the State was extremely low and therefore they had sought quashing of a notification to be illegal. The High Court in that case held that in view of Article 131 of the Constitution such a petition cannot be entertained in High Court. Such a dispute could be raised only in Supreme Court. The judgment is not applicable to the instant case. It cannot be said that either State of Maharashtra

or Karnataka could have raised such a dispute objecting to the location of the site of the project. Petition is filed by the residents of Andhra Pradesh projecting the cause of the owners of the land likely to be adversely affected by the implementation of the project. Such a grievance can only be made by or on behalf of the person interested and not by any of the riparian States. Therefore, neither the bar contained in Section 11 of the Inter-State Water Disputes Act or Article 262 of the Constitution would apply nor Article 131 of the Constitution has any relevance and for that reason the objection of the respondents is unsustainable.

23. The question, thus, remains to be decided is about environmental clearance. As we have noticed above, it is not the stand of the State Government that environmental clearance is not necessary before commencement of the construction of the project. In any case, we would make reference on this point also to the decision in **State of Karnataka v. State of A.P., (6 supra).** Two original suits were decided by the Supreme Court – one filed by the State of Karnataka (O.S.No. 1 of 1997) and the other by the State of Andhra Pradesh (O.S.No. 2 of 1997). In the suit filed by the State of Andhra Pradesh, O.S.No. 2 of 1997, issue No. 15 was whether Upper Krishna State II Multipurpose Project could be executed without obtaining the environmental clearance under the Environment (Protection) Act, 1986 and the notification issued by the Central Government in 1994 in exercise of its powers under the said Act and the rules made thereunder, which mandatorily requires various analysis, including dam break analysis. Onus of this issue was thus placed on the State of Andhra Pradesh. State of Andhra Pradesh had sought number of reliefs in the suit, but essentially the reliefs related to the construction of Almatti Dam by the State of Karnataka. Issue No. 15 had been framed on the plea raised by the State of Andhra Pradesh that the State of Karnataka was likely to execute Upper Krishna Stage II Multipurpose Project without getting environmental clearance under the Environment (Protection) Act under the notification issued by the Central Government in exercise of powers under the same Act and the Rules made thereunder.

24. The apex Court held that under Article 256 of the Constitution, it is an obligation for the States to exercise their power ensuring compliance with the laws made by Parliament and even it enables the Union Government to give such

directions to the State, as may be necessary for that purpose. It was further held that every such project, whether being executed in the State of Maharashtra or Karnataka or Andhra Pradesh, must be approved by the appropriate authority of the Government of India and necessarily, therefore, before any approval is accorded, the project must be found to have complied with all the relevant laws dealing with the matter. Since before the Supreme Court no material was placed that the State of Karnataka had carried out any project in contravention of the provisions of any particular law made by Parliament or in contravention of any direction issued by the Government of India, the issue was held to be premature. But the Supreme Court laid emphasis that all the projects of the different States concerning user of water available to them in respect of an Inter-State river must be duly sanctioned by the appropriate authorities of the Government of India after proper scanning and it is only then the State would be entitled to carry out the same. In this view of the matter also, we are of the view that it will be totally impermissible for the State of Andhra Pradesh to proceed ahead in implementing the project without getting appropriate clearance as is envisaged under the Environment (Protection) Act, 1986.

25. Section 3 of the Environment (Protection) Act, 1986 authorizes the Central Government to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. Sub-section (2) says that in particular and without prejudice to the generality of the provisions of sub-section (1) such measures may include restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards. Rule 5 of the Rules framed under the Act known as Environment (Protection) Rules, 1986 deals with the prohibition and restriction on the location of industries and carrying on processes and operations in different areas. Sub-rule (2) of Rule 5 says that while prohibiting or restricting the location of industries and carrying on of processes or operations in an area, the Central Government shall follow the procedure laid down in subsequent sub-rules. Sub-rule 3 (a) deals with the procedure and the manner in which the Central Government can issue notification in the official gazette. It is an admitted position that on 27.1.1994 the Central Government, in exercise of its powers conferred by sub-section (1) of clause (5) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, issued notification SO. 60 (E) dated

27.1.1994 on environmental impact assessment of development of projects. The said notification directs that, on and from the date of publication of the notification in the official gazette, expansion or modernization of any activity (if pollution load is to exceed the existing one) or a new project listed in Schedule I of the Notification shall not be undertaken in any part of India, unless it has been accorded environmental clearance by the Central Government in accordance with the procedure laid down in the said Notification. This notification was issued after inviting objections from the general public. Clause (2) of the Notification lays down the requirements and the procedure for seeking environmental clearance of the projects. It is not disputed on behalf of the respondents that the project in question is a new project and is listed in Schedule I of the notification. Therefore, the said project, as per the Notification, cannot be undertaken unless environmental clearance has been accorded by the Central Government in accordance with the procedure laid down in the Notification.

26. As and when a project listed in Schedule I is required to be undertaken, an application is required to be submitted by the project authority to the Secretary of Environment and Forests, New Delhi and the application has to be in the proforma as specified in Schedule II of the Notification. The project authority in this case is the State of Andhra Pradesh. The application is required to be accompanied with certain documents, viz., (i) a project report, which inter alia is required to include (ii) Environmental Impact Assessment Report, (iii) Environmental Management Plan and (iv) details of public hearing as specified in Schedule IV prepared in accordance with the Guidelines issued by the Central Government and by the Ministry of Forests and Environment from time to time. Sub-clause (b) of clause (2) says that cases rejected due to submission of insufficient or inadequate data and plans may be reviewed as and when submitted with complete data and plans, but the submission of incomplete data or plans for the second time would itself be sufficient reason for Impact Assessment Agency to reject the case summarily.

27. As regards hydropower and major irrigation projects and/or their combination, including flood control, site specific projects are also required to be included. The project authorities are required to intimate the project location to the Central Government in the Ministry of Environment and Forests at the stage of initiating any investigation and survey. Only on receipt of the intimation, the Central Government in the Ministry of Environment and Forests is required to convey the decision regarding suitability or otherwise of the proposed site within a maximum

period of thirty days. The site clearance is valid for a period of five years for commencement of the construction. At this stage, the communication from the Additional Director, Ministry of Environment and Forests addressed to the Central Government's Standing Counsel becomes relevant and important since the communication states that the proposal in respect of Pulichintala major irrigation project for site clearance was received only on 20.10.2004 from the Irrigation and Command Area Development Department, Government of Andhra Pradesh. It is not the case of the State Government in any of its counter affidavit or additional affidavit that site clearance was obtained from the Central Government in the Ministry of Environment and Forests. It is also not stated that the proposal was submitted. The present stage as per the material placed on record is the stage where the project authority, i.e., the State of Andhra Pradesh while initiating investigation and survey has intimated the project location site to the Central Government. The Central Government has yet to consider and pass orders within thirty days. As per the communication of the Additional Director dated 26.10.2004 the site clearance proposal dated 20.10.2004 is under examination. From the date of submission of the proposal, a period of thirty days will be over on or about 19.11.2004. Therefore, the very first requirement as per the notification dated 27.1.1994 is not yet complied with.

28. Paragraph 3 of the Notification further says that the reports submitted with the application for environmental clearance shall be evaluated and assessed by the Impact Assessment Agency and if deemed necessary it will consult the Committee of Experts. The said committee of Experts will have full right to entry and inspection of the site at any time prior to, during or after commencement of the operation of the project. This Impact Assessment Agency is required to prepare a set of recommendations based on technical assessment of the documents and data furnished by the project authorities and supplemented by the data collected through the visits of sites, if undertaken, and the details of public hearing.

29. Schedule IV refers to the procedure for public hearing and it says that whosoever applies for environmental clearance shall submit to the State Pollution Control Board twenty sets of the documents as mentioned in Part I of the said Schedule. The State Pollution Control Board is required to cause a notice for environmental public hearing and in the public hearing all persons, including bona fide residents, environmental groups and others located at the project site/sites of displacement/sites likely to be affected can participate. They can also make

oral/written suggestions to the State Pollution Control Board. 'Person' has also been explained in Schedule IV and the procedure envisaged for providing access to the executive summary of the project to the concerned persons.

30. The assessment by the Central agency is required to be completed within a period of ninety days from the date of receipt of requisite documents and data from the project authorities and completion of public hearing and the decision has to be conveyed within thirty days thereafter. This environmental clearance granted is also valid for a period of five years from commencement of the construction or operation of the project. Nowhere in the affidavit of the State Government it is stated that it has applied for environmental clearance. No data is furnished; no copy of the application is pointed out. As a matter of fact, as noticed above, the application is required to accompany Environmental Impact Assessment Report, Environmental Management Plan and details of public hearing. Public hearing even as per the stand of the Government has not yet taken place; it is fixed for 10.11.2004. It is only when such an application is submitted that it has to be evaluated and assessed by the Impact Assessment Agency, which thereafter may consult a Committee of Experts. The constitution of the Committee has to be as follows:

"The Committees will consist of experts in the following disciplines:

i. Eco-System Management
ii. Air/Water Pollution Control
iii. Water Resource Management
iv. Flora/Fauna Conservation and Management
v. Land Use Planning
vi. Social Sciences/Rehabilitation
vii. Project Appraisal
viii. Ecology
ix. Environmental Health
x. Subject Area Specialists
xi. Representatives of NGOs/Persons concerned with Environmental Issues."

The Impact Assessment Agency is, thereafter, required to prepare a set of

recommendations. Assessment has to be completed within a period of ninety days and thereafter only question of grant of clearance would arise. Even the stage of assessing the application has not yet arrived.

31. The same paragraph-3 of the Notification says that "no construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and/or site clearance was obtained". As we have noticed above environmental clearance and site clearance are two different stages. For site clearance the project authorities are required to intimate the location of the project while initiating any investigation and survey and for environmental clearance application as per Schedule II is required to be submitted along with accompanying documents. Only investigation and survey can be initiated by the project authorities before site clearance and before accord of environmental clearance "no other construction work, whether preliminary or otherwise, can be undertaken" means no work of any nature relating to the setting up of the project, whether it be construction work, preliminary or otherwise, can be undertaken. It would include any or each of the step in the implementation of the project.

32. The case of the State Government is that Pulichintala Project was conceived in the year 1903 by Mr. Reid, a British Engineer selected the present site for dam construction. The project initially was intended to be an irrigation project. The project could not be implemented. During 1951, the then Madras Government had proposed that Krishna-Pennar Projects be constructed in stages and for the said purpose Planning Commission appointed Khosla Committee, which had drawn up an integrated programme in stages. At Stage III it was proposed to construct dam at Pulichintala across Krishna River with FRL +224.5 feet for development of power and for feeding second crop area in Krishna delta. State Government has pointed out that Pulichintala Project is now sought to be constructed with reduced FRL +175 feet for generation of power and stabilized water supply to Krishna ayacut. The State Government by taking into consideration the importance of Pulichintala Project submitted its proposal to the Central Water Commission on 16.1.1996 for its approval and the Central Water Commission in its 64th meeting of Advisory Committee on Irrigation and Flood Control and Multipurpose Projects held on 3.4.1996 decided to recommend Pulichintala Project as a techno economically viable project subject to obtaining environmental clearance. It is further stated that after recommendation of the Central Water Commission, detailed investigation and

survey was undertaken by the fourth respondent and for obtaining environmental clearance, as prescribed under the notification dated 27.1.1994. Steps have been taken by the State Government as suggested by the A.P. Pollution Control Board for conducting public hearing. It was sought to be conducted on 23.3.1998 but the hearing could not be completed due to various reasons, including resistance from various groups, political parties and voluntary organizations.

33. In this background, it is the stand of the State Government that it is within its right to go ahead with the project and environmental clearance could be issued at stages also, more particularly when the Central Water Commission has approved the project, which has also been cleared by the Planning Commission.

34. The clearance of project by Central Water Commission of Ministry of Water Resources is not the clearance, which is the subject matter before us. Clearance by the Central Water Commission is about the technical and economical aspects. In 1989 guidelines were issued for submission, appraisal and clearance of irrigation and multipurpose projects before the Central Water Commission and their acceptance for Planning Commission for the purpose of inclusion in the State's development plans. It was resolved in the discussion in National Conference organized by the Irrigation and Water Resources Ministry held in July, 1986 that the guidelines indicating the procedure for submission, appraisal and clearance of irrigation and multipurpose project should be prepared by the project appraisal organization of Central Water Commission. The guidelines say that the procedure for submission, appraisal and clearance outlined in the guidelines shall be followed by the State Governments, which require that all major irrigation projects and multipurpose projects shall be investigated in full details and detailed project reports prepared in accordance with the guidelines issued by the Government of India, Ministry of Irrigation. The basic planning and hydrological studies relating to water availability, design flood and sedimentation shall be carried out by the respective specialized units established in the State Irrigation/Water Resources Department. These studies shall be vetted by the Central Water Commission so as to avoid any major change in project features later on. Where project reports have been examined and cleared by the Central Design Organization and State Level Appraisal Committees, the examination of project of CWC will be restricted to Inter State aspects, hydrology and dam safety, water availability, water accounting and economic viability. States are required to submit ten copies along with two sets of detailed project reports along with the letter of clearance by the Central Design

Organization and State Level Appraisal Committees. Clause 2.22 of the guidelines provided that the Central Water Commission will send copies of the project reports and relevant proforma to the Ministry of Environment and Forests for obtaining clearance from the environment and forest angle.

35. Even the National Conference held in 1986 had made it clear that the projects should not be sent to the Centre for techno- economic examination unless these have been thoroughly and comprehensively prepared on an integrated basis by a multi- disciplinary cell in conformity with the guidelines laid down for the purpose and the Central Agencies in turn should review the procedures for techno-economic and other scrutinies in consultation with the States and Union Territories.

36. Needless to add that as per the State Government's stand, the Advisory Committee on Irrigation and Flood Control had only decided to "recommend" that Pulichintala Project was a techno- economically viable project. Whether on such recommendation any clearance was or was not ultimately accorded by the Central Water Commission is not stated in the counter affidavit. However, we are not concerned with the clearance by the Central Water Commission, but are concerned, as noticed above, with the environmental clearance, which as per the decision of the Supreme Court is absolutely necessary before State of Andhra Pradesh can undertake the project in question. We have already referred to the letter from the Additional Director, Ministry of Environment and Forests, Government of India dated 26.10.2004. It is a communication to the Central Government's Standing Counsel requesting to bring to the notice of the Court that even site clearance has not yet been granted and a request for that purpose was received from the State Government only on 20.10.2004 and still there are thirty days from the date of receipt of the request for giving site clearance.

37. As per the procedure laid down in the notification dated 27.1.1994 for obtaining environmental clearance of any project, twenty sets of documents are required to be submitted to the concerned State Pollution Control Board. Though no details have been submitted before us by the State Government when it initiated the process of seeking environmental clearance, but what can be noticed by us and what may be presumably by us from the facts on record is that the State Government must have initiated steps for environmental clearance prior to 23.3.1998, since it is stated that as per the suggestion of the A.P. Pollution Control Board steps were taken for conducting public hearing on 23.3.1998. Application for environmental

clearance of the project with twenty sets of documents, as referred to in Schedule IV, when presented to the State Pollution Control Board would require the State Pollution Control Board to take steps for issuing notice of public hearing and the result of public hearing has to be incorporated in the formal application, which ultimately will have to be submitted to the Secretary, Ministry of Environment and Forests, New Delhi in Schedule II. Such an application is also required to be accompanied by a project report, which shall inter alia include an Environmental Impact Assessment Report and Environmental Management Plan and of course details of public hearing prepared in accordance with the guidelines issued by the Central Government. Nowhere it is stated that any Environmental Impact Assessment Report has or has not been obtained or whether any Environmental management Plan has been prepared. The entire affidavit of the State Government is silent on this aspect and gives an impression that these steps are yet to be taken and all necessary formalities is yet to be complied with of submitting appropriate application in proforma specified in Schedule II of the Notification dated 27.1.1994. It is only thereafter that the case will have to be assessed and examined by the Central Agency. As noticed above, any application, if submitted with insufficient or inadequate data and plans is liable to be rejected and can only be reviewed when submitted with complete data and plans and submission of incomplete data and plans for the second time itself is sufficient for Impact Assessment Agency to reject the case summarily. Considering the mandatory nature of the environmental clearance, procedure has to be meticulously followed. Only on environmental clearance any construction, preliminary or otherwise, relating to setting up of the project can be undertaken. There is an express prohibition that “no construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and/or site clearance is obtained”.

38. We understand the anxiety of the State Government in speedy implementation of the project for which the State Government might be committed. But the question before us is that can the State Government be permitted to flout the directions of the Supreme Court or the laws made by the Parliament. The answer has to be in the negative that it cannot do so. In the suit filed by the State Government against the State of Karnataka itself this position was clarified that under Article 256 of the Constitution it is an obligation on the part of the State to exercise their power ensuring compliance with laws made by the Parliament. The Supreme Court

specifically asserted that several provisions of the Constitution have been tested in the last fifty years and there is no reason to conceive that any State will proceed ahead with its object without getting sanction/concurrence of the appropriate authorities and without compliance with the relevant statutes or laws. Only after proper scanning and approval by the Central Government – Ministry of Environment and Forests, the State Government would be entitled to carry out and implement the proposed project.

39. There is no manner of doubt that no development is possible without some adverse effect on ecology and environment and the projects of public utility cannot be abandoned. It is always necessary to adjust the interests of the people as well as to maintain environment; balance has to be struck between two interests. Where the commercial venture or enterprise would bring in results, which are far more useful for the people, difficulties of a small number of people have to be bypassed. The comparative hardship has to be balanced and the convenience and benefit to the larger section of the project has to get primacy over comparably lesser hardship. Sustainable development is essentially a policy and strategy for continued economic and social development without detriment to the environment and natural resources on the quality of which continued activity and further development depend. In **T.N. Godavarman Thirumalpad v. Union of India,** it was held that duty is cast upon the Government under Article 21 of the Constitution to protect the environment and there are two principles governing law of environment, viz., the principle of sustainable development and precautionary principle. We are equally conscious of the principle that Courts in exercise of their jurisdiction will not transgress into the field of policy decision and would also not interject the implementation of the project as per the policy of the Government, but for the time being the second limb of the writ petition that whether or not the project should continue at the present site or not is premature as was held by Division Bench of this Court in earlier Writ Petition No. 15425 of 2001. Site clearance and environmental clearance by the Central Government alone will enable the State Government to proceed ahead with the project. Both the stages of site clearance and environmental clearance are not yet over. It is a settled principle that when an authority has power to accord permission or grant clearance, such power to grant permission or to accord sanction also includes therein the power not to grant such permission or accord such sanction. It cannot be presumed today that the State Government will necessarily get site clearance; it cannot also be presumed that the State

Government will necessarily get environmental clearance. Therefore, till such clearances are granted, the challenge by the petitioners to the project on the other grounds is premature and need not be gone into by us.

40. We have already noticed that only the question being considered is whether or not there should be a stay. We are not considering such question of grant or non-grant of stay in a matter where already the project stands cleared and the persons likely to be adversely affected have approached the Court for staying implementation of the project. Only in a situation like the later that the question of balance of convenience, comparative hardship would arise for consideration. May be that on such consideration the Court might be persuaded not to grant stay in larger public interest at the behest of a minority section of the population. But it is a case like the present one where as per the admission of the State Government, there is neither any site clearance granted nor environmental clearance obtained and public hearing is yet to take place, such consideration may not be relevant at all. It is only when public hearing is concluded that the State Government will be entitled to apply for environmental clearance. On the ratio of the decision of the Supreme Court rendered in a suit filed by the Andhra Pradesh Government against the State of Karnataka, it is not at all permissible for the State Government to proceed ahead with the project. In its over-anxiety, to complete the project expeditiously in a hurried manner, the State Government floated tenders and awarded contract also. The contractor has undertaken the work and justification that is being projected in the reply is that the work undertaken is only an investigation work for assessing soil parameters for the purpose of preparing and finalization of designs, drawings, etc. Comprehensive design for a plan is required to be submitted before obtaining approval from the Central Water Commission. The stand which the State Government has taken in paragraph-7 of the counter affidavit dated 26.10.2004 itself would suggest that it is more than an investigation work, which is going on. It is stated in the said paragraph that site is suitable in all respects and construction of dam always involves submergence and even if the project is implemented there will not be any major impact. The notification envisages that no work whatsoever, whether preliminary or otherwise, can be undertaken. A distinction was tried to be drawn between construction work and any other work and it was pointed out that digging would not come within the definition of construction. The digging was only for the purpose of soil testing and for the purpose of preparation of designs. At the stage of initiating any investigation and survey that project authorities are required to

intimate the location of the site to the Central Government so as to grant site clearance; even that stage is not over. Therefore, any work undertaken on the spot would not be permissible under the notification.

42. On behalf of the respondents, it was urged that the guidelines and the notification dated 27.1.1994 issued by the Central Government are not having any statutory force. The same can be taken to be merely in the nature of executive instructions for the guidance of the persons applying for environmental clearance. Same have no binding effect and even if there is some infraction on the part of the State Government a writ petition will not lie seeking enforcement of the procedure laid down in the notification. Reliance was placed on the decision of the Supreme Court in **J.R. Rathupathy v. State of A.P.** We have given due consideration to the submission made but do not find any force in such submission. We have already observed above that it is not the case of the State Government that it is not bound by the Notification of 1994. We have also taken note of the fact that the State Government was a party to the suit before the Supreme Court in which itself it was held that the Government is bound to comply with the procedural laws before undertaking any project. Therefore, the objection raised on behalf of the other respondents, who are only beneficiaries, will have no force and they cannot be permitted to urge what cannot be urged by the State Government.

43. Respondents also placed reliance upon the decision of the Bombay High Court in **Goa Foundation v. Konkan Railway Corporation** urging that the Division Bench in the said case dismissed the writ petition filed as public interest litigation and declined to exercise writ jurisdiction holding that such a petition filed as public interest litigation cannot be entertained since the writ jurisdiction is to advance the cause of justice and not to defeat the exercises undertaken by the Government for the public benefit. The machinery of the Court should not be used for subserving the interest of few individuals or interest of a local area to the detriment of the public at large. It was urged in the said case before the Bombay High Court that laying of new broad gauge railway line was sought to be prevented by filing a writ petition and it was sought to be got stayed on the ground that there was no environmental clearance obtained. The writ petition was dismissed on the ground that environmental clearance was not necessary and even if environmental clearance is not obtained, there is no question of grant of stay.

44. Reliance placed on behalf of the respondents on the aforementioned

decision of the Bombay High Court is totally misplaced. The learned Judges of the Bombay High Court took notice of the respective stand of the parties. In the said case, the claim of the writ petitioner was that the alignment of rail track would have devastating and irreversible impact upon some lands and that undertaking such activity without obtaining environmental clearance was not permissible. On the second question, the Division Bench held that the provisions of the Environment (Protection) Act had no application in respect of the work undertaken in exercise of powers under Section 11 of the Railways Act. It was held that the non-obstante clause of Section 11 makes it clear that the provisions of the Environment (Protection) Act do not bind the construction or maintenance of railway line. Irrespective of that objection the Court took into consideration an aspect that it was not open to frustrate the project of public importance to safeguard the interest of few persons and therefore there was no balance of convenience in favour of the writ petitioners. Balance has to be struck between two interests and the Courts are bound to take into consideration the comparative hardship, which people in the region would suffer by stalling the project of great public utility since the cost of project was likely to escalate from day to day.

45. In the case in hand such is not the situation. The provisions of the Environment (Protection) Act are applicable and it is impermissible for the State to proceed ahead or undertake the construction of the project without obtaining environmental clearance. Whether undertaking such a project is for the benefit of a particular section of the society or not or is in larger public interest is not the consideration before us at this stage. Without deciding this question we proceed on the assumption that the construction of project is in larger public interest of immense benefit to the major population of the State Andhra Pradesh, and is of an extreme importance having considerable impact and the anxiety of the State Government is to complete the project as quickly as possible. But can the State Government be permitted to flout the mandatory provisions of law when the Supreme Court in the suit filed by the State Government categorically held that implementation of the project cannot be undertaken without prior concurrence/clearance. It was urged on behalf of the respondents with considerable data that a large number of projects have already been undertaken by the State Government and in most of the cases environmental clearance has not yet been obtained. Even there is no clearance from the Planning Commission or from the Central Water Commission but works on such

projects are in progress. Thus, it was urged that since a number of other projects are continuing in the State and works are in progress on those projects, there will be no lawful justification in staying the implementation of the project in this case since post-facto clearance can always be obtained by the State Government.

46. From the nature and the contents of the affidavit in reply filed by the State Government, it also appears that the State Government is labouring under the impression that it will be permissible for it to obtain environmental clearance post-facto and public hearing is only a formality and, therefore, there should not be any interjection of the project of such a great magnitude of great public importance, which so dear to the State Government. Again such a stand has to be turned down and deprecated that when law requires a thing to be in a particular manner, the same must be done in the same manner or not done at all. The law envisages that no construction, preliminary or otherwise, can be undertaken without environmental clearance and the judgment of the Supreme Court also holds that it is impermissible to undertake construction of project before such a clearance, therefore, there is no reason why prayer made by the petitioners to that extent in the writ petition be not allowed.

47. In **Narmada Bachao Andolan case (5 supra)** environmental clearance had already been given much prior to coming into force of 1994 Notification. Such notification was issued during the pendency of one of the writ petitions. The petitioners were anti dam organizations and were opposing the construction by raising the height of the dam, which had been in existence since 1986. They had chosen to challenge the clearance given in 1987 by filing writ petition in 1994. It was noticed that the project, in fact, had already been cleared more than twenty five years ago when foundation stone was laid by late Pandit Jawaharlal Nehru and thereafter there had been agreements in 1974 between four Chief Ministers of Madhya Pradesh, Gujarat, Maharashtra and Rajasthan for undertaking of the project. Dispute had arisen with regard to the height of the dam, which was settled with the award given in 1978. In the meanwhile, environmental studies had been conducted. The Government finally gave environmental clearance in 1987. Thereafter construction of the dam was undertaken and hundreds and crores were spent thereupon whereafter writ petitioners chose to file the writ petition. In that background, the Supreme Court held that when projects are undertaken and hundreds and crores of public money are spent, individuals and organizations under

the garb of public interest litigation cannot be permitted to challenge the decision taken after a lapse of considerable time. In paragraph 231 of the judgment, it was observed that while exercising jurisdiction in public interest litigation cases, the Court has not forsaken its duty as a Court of law dispensing justice in accordance with law. It is only where there has been a failure on the part of any authority in acting according to law or in non-action or acting in violation of the law that courts have stepped in.

48. In view of what has been discussed above holding that action of the State Government in implementation of the project without obtaining environmental clearance as envisaged under the provisions of the Environment (Protection) Act, 1986, the rules framed thereunder and the notification, is illegal and arbitrary, it is not permissible for the State Government to proceed ahead with the implementation of the said project till such clearances are obtained. We dispose of this writ petition with direction to the State Government not to proceed ahead in implementation of the project and not to undertake any construction work, whether preliminary or otherwise, till environmental clearance is obtained. The writ petition to that extent is allowed. The miscellaneous applications are also ordered. The writ petition for the other reliefs is disposed of with the observation that the said reliefs, at this stage, are premature.

17th November, 2004.

Sarfraz

Note: LR Copy to be marked.

// **true copy** //

Assistant Registrar

To

1 Secretary, Union of India, Ministry of Environment and Forests,

2 Principal Secretary, State of Andhra Pradesh,
Irrigation&CAD Department, Secretariat, Hyderabad.

3 Member-Secretary, A.P. Pollution Control Board,
Maitrivanam, HUDA Complex, Ameerpet, Hyderabad.

4 The Superintending Engineer, Irrigation & CAD Department,
Pulichintala Project Circle, D.No.29-19-39, 2nd Floor, Dornakal Road, Suryaraopet,
Vijayawada.

5 Chairman, The Central Water Commission, New Delhi.

6 The District Collector, Nalgonda, Nalgonda District.

7 The District Collector, Guntur, Guntur District.

8. 8 LR copies

9. The Under Secretary, Ministry of Law, Justice & Company Affairs, New Delhi.

10. The President, AP High Court Bar Association, High Court Buildings, Hyderabad.

11. **GP** for Irrigation, High Court Buildings, Hyderabad (OUT)